

Senate File 2064 - Introduced

SENATE FILE 2064

BY CHELGREN

A BILL FOR

1 An Act relating to fireworks possession, use, sales, transfers,
2 and purchases, including by transferring sales taxes on
3 certain fireworks to a new local fire department equipment
4 fund, and providing penalties.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 100.1, Code 2014, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 8. To administer the local fire department
4 equipment fund created pursuant to section 100.19.

5 Sec. 2. NEW SECTION. 100.19 **Local fire department equipment**
6 **fund.**

7 A local fire department equipment fund is created in the
8 state treasury under the control of the state fire marshal.
9 The fund is separate from the general fund of the state. The
10 fund is composed of moneys transferred to the fund pursuant
11 to section 423.2, subsection 11, paragraph "b", subparagraph
12 (05). Moneys in the fund shall be used to provide grants
13 to local fire departments in this state for the purchase or
14 maintenance of fire equipment. The fire marshal shall adopt
15 rules pursuant to chapter 17A for the administration of the
16 fund. Notwithstanding section 12C.7, subsection 2, interest or
17 earnings on moneys in the fund shall be credited to the fund.
18 Moneys credited to the fund shall not be transferred, used,
19 obligated, appropriated, or otherwise encumbered, except as
20 provided in this section.

21 Sec. 3. Section 101A.1, subsection 3, Code 2014, is amended
22 to read as follows:

23 3. "*Explosive*" means any chemical compound, mixture
24 or device, the primary or common purpose of which is to
25 function by explosion with substantially instantaneous
26 release of gas and heat, unless such compound, mixture, or
27 device is otherwise specifically classified by the United
28 States department of transportation. The term "*explosive*"
29 includes all materials which are classified as a class 1,
30 division 1.1, 1.2, 1.3, or 1.4 explosive by the United States
31 department of transportation, under 49 C.F.R. § 173.50, and
32 all materials classified as explosive materials under 18
33 U.S.C. § 841, and includes, but is not limited to, dynamite,
34 black powder, pellet powders, initiating explosives, blasting
35 caps, electric blasting caps, safety fuse, fuse lighters, fuse

1 igniters, squibs, cordeau detonative fuse, instantaneous fuse,
2 igniter cord, igniters, smokeless propellant, cartridges for
3 propellant-actuated power devices, cartridges for industrial
4 guns, and overpressure devices, but does not include ~~"fireworks"~~
5 as "consumer fireworks", "display fireworks", or "novelties" as
6 those terms are defined in section 727.2 or ammunition or small
7 arms primers manufactured for use in shotguns, rifles, and
8 pistols. Commercial explosives are those explosives which are
9 intended to be used in commercial or industrial operations.

10 Sec. 4. Section 331.301, Code 2014, is amended by adding the
11 following new subsection:

12 NEW SUBSECTION. 17. The board of supervisors may by
13 resolution suspend the use of display fireworks as described
14 in section 727.2, if the board determines that the use of such
15 devices would constitute a threat to public safety.

16 Sec. 5. Section 331.304, subsection 9, Code 2014, is amended
17 to read as follows:

18 9. The board, upon application, may grant permits for the
19 display of display fireworks as provided in section 727.2.

20 Sec. 6. Section 364.2, Code 2014, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 6. A city council may by resolution suspend
23 the use of display fireworks as described in section 727.2, if
24 the city council determines that the use of such devices would
25 constitute a threat to public safety.

26 Sec. 7. Section 423.2, subsection 11, paragraph a, Code
27 2014, is amended by adding the following new subparagraph:

28 NEW SUBPARAGRAPH. (3) Subsequent to the deposit into
29 the general fund of the state, the director shall credit an
30 amount equal to the product of the sales tax rate imposed in
31 this section times the sales price of consumer fireworks and
32 novelties as defined in section 727.2, into the local fire
33 department equipment fund created pursuant to section 100.19.
34 The director shall credit the moneys beginning the first day of
35 the quarter following July 1, 2015.

1 Sec. 8. Section 423.2, subsection 11, paragraph b, Code
2 2014, is amended by adding the following new subparagraph:

3 NEW SUBPARAGRAPH. (05) Transfer to the local fire
4 department equipment fund that portion of the sales tax
5 receipts described in paragraph "a", subparagraph (3),
6 remaining after the transfers required under subparagraphs (1),
7 (2), (3), and (4) of this paragraph "b".

8 Sec. 9. Section 461A.42, subsection 2, Code 2014, is amended
9 to read as follows:

10 2. The use of consumer fireworks, display fireworks, and
11 novelties, as defined in section 727.2, in state parks and
12 preserves is prohibited except as authorized by a permit issued
13 by the department. The commission shall establish, by rule
14 adopted pursuant to chapter 17A, a fireworks permit system
15 which authorizes the issuance of a limited number of permits to
16 qualified persons to use or display fireworks in selected state
17 parks and preserves.

18 Sec. 10. Section 727.2, Code 2014, is amended to read as
19 follows:

20 **727.2 Fireworks.**

21 1. For purposes of this section:

22 a. "Consumer fireworks" includes all consumer fireworks
23 enumerated in chapter 3 of the American pyrotechnics
24 association's standard 87-1, and that comply with the labeling
25 regulations promulgated by the United States consumer product
26 safety commission.

27 b. The term "fireworks" "Display fireworks" includes any
28 explosive composition, or combination of explosive substances,
29 or article prepared for the purpose of producing a visible
30 or audible effect by combustion, explosion, deflagration,
31 or detonation, and includes blank cartridges, firecrackers,
32 torpedoes, skyrockets, roman candles, or other fireworks of
33 like construction and fireworks containing any explosive or
34 flammable compound, or other device containing any explosive
35 substance. The term "fireworks" "Display fireworks" does not

1 ~~include goldstar-producing sparklers on wires which contain~~
2 ~~no magnesium or chlorate or perchlorate, flitter sparklers~~
3 ~~in paper tubes that do not exceed one-eighth of an inch in~~
4 ~~diameter, toy snakes which contain no mercury, or caps used~~
5 ~~in cap pistols~~ novelties or consumer fireworks enumerated in
6 chapter 3 of the American pyrotechnics association's standard
7 87-1.

8 c. "Novelties" includes all novelties enumerated in chapter
9 3 of the American pyrotechnics association's standard 87-1, and
10 that comply with the labeling regulations promulgated by the
11 United States consumer product safety commission.

12 2. A person, firm, partnership, or corporation who offers
13 for sale, exposes for sale, sells at retail, or uses or
14 explodes any display fireworks, commits a simple misdemeanor.
15 ~~In addition to any other penalties, the punishment imposed~~
16 ~~for a violation of this section shall include assessment~~
17 ~~of, punishable by~~ a fine of not less than two hundred fifty
18 dollars. However, the a city council of a city or a county
19 board of supervisors may, upon application in writing, grant a
20 permit for the display of display fireworks by municipalities,
21 fair associations, amusement parks, and other organizations
22 or groups of individuals approved by the city or the county
23 board of supervisors when the display fireworks display will
24 be handled by a competent operator, but no such permit shall
25 be required for the display of display fireworks at the Iowa
26 state fairgrounds by the Iowa state fair board, at incorporated
27 county fairs, or at district fairs receiving state aid. Sales
28 of display fireworks for such display may be made for that
29 purpose only.

30 3. The governor may order the suspension of the use of
31 consumer fireworks, display fireworks, or novelties, if
32 the governor determines that the use of such devices would
33 constitute a threat to public safety.

34 4. a. A person who uses or explodes display fireworks while
35 the use of such devices is suspended by a resolution adopted

1 by the county or city in which the fireworks are used commits a
2 simple misdemeanor, punishable by a fine of not less than two
3 hundred fifty dollars.

4 b. A person who uses or explodes consumer fireworks,
5 display fireworks, or novelties while the use of such devices
6 is suspended by an order of the governor commits a simple
7 misdemeanor, punishable by a fine of not less than two hundred
8 fifty dollars.

9 5. a. A person who is at least eighteen years of age or
10 a firm, partnership, or corporation may possess or transfer,
11 offer for sale, expose for sale, or sell at retail to a person
12 who is eighteen years of age or older novelties or consumer
13 fireworks. A person who is eighteen years of age or older may
14 use or explode novelties or consumer fireworks.

15 b. A person, firm, partnership, or corporation who transfers
16 or sells novelties or consumer fireworks to a person who is
17 less than eighteen years of age commits a simple misdemeanor,
18 punishable by a fine of not less than two hundred fifty
19 dollars. A person who is less than eighteen years of age who
20 purchases, possesses, uses, or explodes novelties or consumer
21 fireworks commits a simple misdemeanor, punishable by a fine of
22 not less than two hundred fifty dollars.

23 ~~3.~~ 6. a. This section does not prohibit the sale by a
24 resident, dealer, manufacturer, or jobber of such fireworks as
25 are not prohibited by this section, or the sale of any kind
26 of fireworks if they are to be shipped out of the state, or
27 the sale or use of blank cartridges for a show or the theater,
28 or for signal purposes in athletic sports or by railroads
29 or trucks, for signal purposes, or by a recognized military
30 organization.

31 b. This section does not apply to any substance or
32 composition prepared and sold for medicinal or fumigation
33 purposes.

34 c. This section does not apply to goldstar-producing
35 sparklers on wires which contain no magnesium or chlorate or

1 perchlorate, flitter sparklers in paper tubes that do not
2 exceed one-eighth of an inch in diameter, toy snakes which
3 contain no mercury, or caps used in cap pistols.

4 EXPLANATION

5 The inclusion of this explanation does not constitute agreement with
6 the explanation's substance by the members of the general assembly.

7 This bill provides for the legal sale and use of novelties
8 and consumer fireworks within the state.

9 Current law provides that a person, firm, partnership, or
10 corporation who offers for sale, exposes for sale, sells at
11 retail, or uses or explodes any fireworks, commits a simple
12 misdemeanor. Current law, however, also provides that a city
13 council or a county board of supervisors may grant a permit
14 for the display of fireworks if the fireworks display will be
15 handled by a competent operator. Current law further provides
16 that the term "fireworks" includes any explosive composition,
17 or combination of explosive substances, or article prepared
18 for the purpose of producing a visible or audible effect by
19 combustion, explosion, deflagration, or detonation, including
20 blank cartridges, firecrackers, torpedoes, skyrockets, roman
21 candles, or other fireworks of like construction and fireworks
22 containing any explosive or flammable compound, or other device
23 containing any explosive substance with limited exceptions.

24 The bill maintains these restrictions for display fireworks
25 and provides that the term "display fireworks" shall not
26 include novelties or consumer fireworks. The bill provides
27 that the terms "novelties" and "consumer fireworks" each
28 respectively include all novelties or consumer fireworks
29 enumerated in chapter 3 of the American pyrotechnics
30 association's standard 87-1, which comply with the labeling
31 regulations promulgated by the United States consumer product
32 safety commission.

33 The bill provides that a person who is at least 18 years
34 of age or a firm, partnership, or corporation may possess, or
35 transfer, offer for sale, expose for sale, or sell at retail

1 any novelties or consumer fireworks to any person who is at
2 least 18 years of age. The bill provides that any person who
3 is at least 18 years of age may use or explode novelties or
4 consumer fireworks.

5 The bill provides that a person, firm, partnership, or
6 corporation who transfers or sells novelties or any consumer
7 firework to a person who is less than 18 years of age commits
8 a simple misdemeanor. A person who is less than 18 years of
9 age who purchases, possesses, uses, or explodes novelties or
10 any consumer fireworks commits a simple misdemeanor. A simple
11 misdemeanor is generally punishable by confinement for no more
12 than 30 days or a fine of at least \$65 but not more than \$625 or
13 by both, but the bill provides for a fine of at least \$250.

14 The bill provides that the governor may order the suspension
15 of the use of consumer fireworks, display fireworks, or
16 novelties if the governor determines that the use of such
17 devices would constitute a threat to public safety. The bill
18 further provides that a county board of supervisors or city
19 council may by ordinance suspend the use of display fireworks,
20 if the board or council determines that the use of such devices
21 would constitute a threat to public safety. The bill provides
22 that a person who violates such an order or ordinance commits a
23 simple misdemeanor, punishable by a fine of at least \$250.

24 The bill also creates a local fire department equipment
25 fund in the state treasury under the control of the state fire
26 marshal to be composed of moneys transferred to the fund by the
27 director of the department of revenue from the sales tax on
28 sales of consumer fireworks and novelties. Moneys in the fund
29 shall be used to provide grants to local fire departments for
30 the purchase or maintenance of fire equipment pursuant to rules
31 adopted by the fire marshal. Interest or earnings on moneys in
32 the fund shall be credited to the fund.

33 The bill maintains current exemptions for goldstar-producing
34 sparklers on wires which contain no magnesium or chlorate or
35 perchlorate, flitter sparklers in paper tubes that do not

S.F. 2064

1 exceed one-eighth of an inch in diameter, toy snakes which
2 contain no mercury, and caps used in cap pistols.